



Janet Napolitano
Governor

Victor M. Mendez
Director

Arizona Department of Transportation

Intermodal Transportation Division
206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

David P. Jankofsky
Deputy Director

November 14, 2006

Chris B. Watson
Railroad Safety Inspector
Arizona Corporation Commission
1210 West Washington
Phoenix, Arizona 85007

RE: TRACS No. 0940 PM TUC SR193 01C
Project No. STP-000-6(173)P
RAIL/HIGHWAY SAFETY PROGRAM
36th Street (Tucson)
Union Pacific Railroad Company
Agreement No. 1532-91-SPTC
ADOT Audit No. R1532BM06
AAR/DOT No: 741-292-U

RR-03639A-06-0731

Dear Mr. Watson:

Please furnish our office with an Opinion and Order to cover the installation of Signals described in the subject agreement. An agreement covering the work has been signed by the Railroad Company. A copy is attached for your information and files.

After we receive the Opinion and Order, we will send you a copy of our letter authorizing the Railroad to proceed with the work.

Sincerely,

John Syers
Railroad Engineering Coordinator
Utility & Railroad Engineering Section
1655 West Jackson Street, Mail Drop 215E
Phoenix, Arizona 85007
Phone 602 712-8694 Fax 602 712-3229 www.jsyers@azdot.gov

AZ CORP COMMISSION
DOCUMENT CONTROL

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Attachment

Arizona Corporation Commission
DOCKETED

NOV 16 2006

DOCKETED BY	
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2001 Award Recipient



Janet Napolitano
Governor

Victor M. Mendez
Director

Arizona Department of Transportation

Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

February 28, 2006

David P. Jankofsky
Deputy Director

RAILROAD CROSSING PROJECT

TRACS No.: 0940 PM TUC SR193 01C

Project No.: STP-000-6(173)A

Location: 36th Street

AAR/DOT No.: 741-292-U

RR M.P.: 987.40, Gila Subdivision

ADOT Accounting No.: R1532BM06

RAILROAD AGREEMENT

For

FEDERAL AID

Railroad Crossing Projects

UNION PACIFIC RAILROAD COMPANY

Agreement No. 1532-91-SPTC

RAIL/HIGHWAY SAFETY PROGRAM



2001 Award Recipient

SUMMARY OF ESTIMATE

Total

Preliminary Engineering: \$15,093.00

Construction:

Signals \$140,413.00

Surface \$136,346.00
*\$291,852.00

*Railroad will invoice ADOT for 100% of total work.
Railroad will separate Preliminary Engineering costs
from Construction costs.

TRACS No. 0940 PM TUC SR193 01C
Project No. STP-000-6(173)A
Agreement No. 1532-91-SPTC
ADOT Accounting No.: R1532BM06
EXHIBIT "A"
Sheet 1 of 3



A.E.R.

JAN 11 2006

DATE: 2006-01-11

ESTIMATE OF MATERIAL AND FORCE ACCOUNT WORK
BY THE
UNION PACIFIC RAILROAD

DESCRIPTION OF WORK:

INSTALL 1 80FT CONCRETE ON WOODTIE CROSSING SURFACE. INCLUDING TIES, RAIL
OTM AND BALLAST AT 36TH ST IN TUCSON AZ. MP. 987.40 ON THE GILA SUB.
RAILROAD TO PERFORM ALL WORK / COST DISTRIBUTED AS FOLLOWS:
SURFACE - STATE OF ARIZONA 100%

PID: 46716 AWO: 43540 MP, SUBDIV: 987.40, GILA
SERVICE UNIT: 16 CITY: TUCSON STATE: AZ

DESCRIPTION	QTY	UNIT	LABOR	MATERIAL	RECOLL	UPRR	TOTAL
ENGINEERING WORK							
ENGINEERING			2099		2099		2099
TOTAL ENGINEERING			2099		2099		2099
SIGNAL WORK							
MATL STORE EXPENSE				18	18		18
SALES TAX				15	15		15
SIGNAL			386	376	762		762
TOTAL SIGNAL			386	409	795		795
TRACK & SURFACE WORK							
BALAST	2.00	CL	2182	1164	3346		3346
BILL PREP				900	900		900
CONTRACT EQUIP W/OPER				10000	10000		10000
FIELD WELD			122		122		122
HOMELINE FREIGHT				900	900		900
LABOR ADDITIVE 165%			29199		29199		29199
MATL STORE EXPENSE				658	658		658
OTM			2430	2311	4741		4741
RAIL	240.00	LF	2574	4111	6685		6685
RDXING	80.00	TF	5121	11194	16315		16315
ROADWAY APPROACH WORK				36000	36000		36000
SALES TAX				939	939		939
SAW CUT APPROACHES				1000	1000		1000
SCRAP TIE CONTRACTOR				375	375		375
TRAFFIC CONTROL				10000	10000		10000
TRK-SURF, LIN			2369		2369		2369
WELD			3956	259	4215		4215
XTIE	60.00	EA	7347	4507	11854		11854
TOTAL TRACK & SURFACE			55300	84318	139618		139618
LABOR/MATERIAL EXPENSE			57785	84727			
RECOLLECTIBLE/UPRR EXPENSE					142512	0	
ESTIMATED PROJECT COST							142512
EXISTING REUSEABLE MATERIAL CREDIT					0		
SALVAGE NONUSEABLE MATERIAL CREDIT					0		

RECOLLECTIBLE LESS CREDITS

THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION. IN THE EVENT OF
AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF MATERIAL OR LABOR REQUIRED,
UPRR WILL BILL FOR ACTUAL CONSTRUCTION COSTS AT THE CURRENT EFFECTIVE RATE.

TRACS No. 0940 PM TUC SR193 01C
Project No. STP-000-6(173)A
Agreement No. 1532-91-SPTC
ADOT Accounting No.: R1532BM06
EXHIBIT "A"
Sheet 2 of 3

DATE: 2006-01-12

ESTIMATE OF MATERIAL AND FORCE ACCOUNT WORK
BY THE
UNION PACIFIC RAILROAD

DESCRIPTION OF WORK:

REMOVE EXISTING CASE, UPGRADE EXISTING FL SIGNALS W/GATES TO LED LIGHTS
AND INSTALL CANTILEVER FL SIGNALS & AC/DC CIRCUITRY AND NEW CABIN AT
36TH STREET IN TUCSON, AZ. M.P. 987.40 ON THE GILA SUB.
RAILROAD TO PERFORM ALL WORK / COST DISTRIBUTED AS FOLLOWS:
SIGNAL - STATE OF ARIZONA 100% RECOLLECTIBLE

PID: 46554 AWO: 43419 MP, SUBDIV: 987.40, GILA
SERVICE UNIT: 16 CITY: TUCSON STATE: AZ

DESCRIPTION	QTY	UNIT	LABOR	MATERIAL	RECOLL	UPRR	TOTAL
ENGINEERING WORK							
ENGINEERING			2172		2172		2172
LABOR ADDITIVE 103.45%			6607		6607		6607
SIG-HWY XNG			4215		4215		4215
TOTAL ENGINEERING			12994		12994		12994
SIGNAL WORK							
SALES TAX				1878	1878		1878
SIGNAL				46959	46959		46959
TOTAL SIGNAL				48837	48837		48837
TRACK & SURFACE WORK							
BILL PREP			900		900		900
CONTRACT				6446	6446		6446
EARTH FILL/ROCK				500	500		500
LABOR ADDITIVE 103.45%			27537		27537		27537
PERSONAL EXPENSES				22500	22500		22500
SIG-HWY XNG			26620		26620		26620
TRANSPORTATION CHARGES				3006	3006		3006
TOTAL TRACK & SURFACE			55057	32452	87509		87509
LABOR/MATERIAL EXPENSE							
RECOLLECTIBLE/UPRR EXPENSE			68051	81289	149340	0	149340
ESTIMATED PROJECT COST							149340
EXISTING REUSEABLE MATERIAL CREDIT					0		
SALVAGE NONREUSEABLE MATERIAL CREDIT					0		

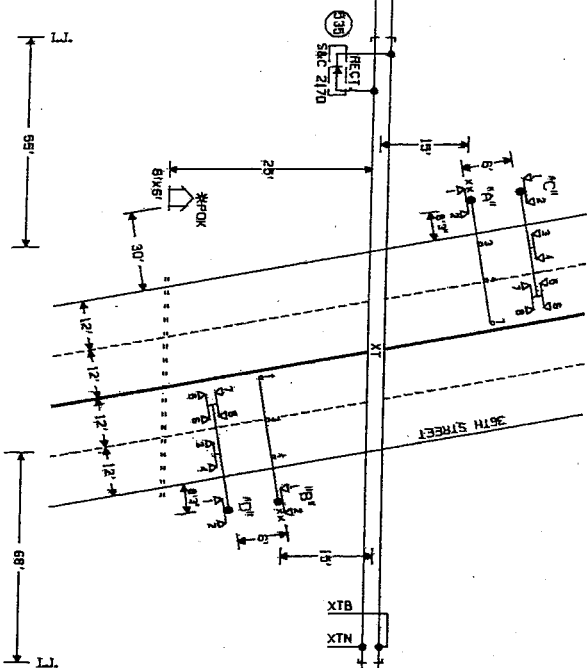
RECOLLECTIBLE LESS CREDITS

THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION. IN THE EVENT OF
AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF MATERIAL OR LABOR REQUIRED,
UPRR WILL BILL FOR ACTUAL CONSTRUCTION COSTS AT THE CURRENT EFFECTIVE RATE.

TRACS No. 0940 PM TUC SR193 01C
Project No. STP-000-6(173)A
Agreement No. 1532-91-SPTC
ADOT Accounting No.: R1532BM06
EXHIBIT "A"
Sheet 3 of 3

TO END OF TRACK

TO TUCSON YARD



NOTES

- ⊗ TWISTED WIRES INSULATED 1 TWIST PER FT. ALL TRACK WIRES 2C, 4C.
- TRANSMITTER AND RECEIVER LEADS TO BE SEPARATED BY AT LEAST 12" IN TRENCH, RECOMMENDATION.
- TOP OF FOUNDATION TO BE AT SAME ELEVATION AS THE SURFACE OF THE SURFACE OF THE GROUND, MORE THAN 4" ABOVE THE SURFACE OF THE GROUND, UNLESS OTHERWISE SPECIFIED EXCEPT ALL GROUND WIRE TO BE 1/8" AWG FLEX OR LARGER.
- ALL WIRING IN GATE MECHANISM TO BE 1/10" AWG FLEX, REFER TO UP STANDARD DWG FOR BUNGALOW GROUNDING.
- DO NOT USE 7 CELLS OF B12 BATTERY UNLESS REQUIRED TO MAINTAIN MINIMUM LAMP VOLTAGE.
- ALL LIGHTS TO BE 12" ROUND L.S.
- ***** 4" X 60' CONDUIT

LIGHTS, LED LIGHTS

GATE A-32
GATE B-32
CANT C-28
CANT D-28
CANT E-28
CANT F-28
CANT G-28
CANT H-28
CANT I-28
CANT J-28
CANT K-28
CANT L-28
CANT M-28
CANT N-28
CANT O-28
CANT P-28
CANT Q-28
CANT R-28
CANT S-28
CANT T-28
CANT U-28
CANT V-28
CANT W-28
CANT X-28
CANT Y-28
CANT Z-28

TRACS No. 0940 PM TUC SR193 01C
Project No. STP-000-6(173)A
Agreement No. 1532-91-SPTC
ADOT Accounting No.: R1532BM06
EXHIBIT "B"
Sheet 1 of 1

CONSTRUCTION NOTES

- 1) INSULATED JOINTS ARE EXISTING.

NEW
SHEET

TUCSON, ARIZONA
301 N. 1ST ST.
BILA BUDDIVISION
01011, 7741 2420

N
O
E

MODIFICATION LEVEL	DATE	BY
0.1. LAST LEVEL, CMT, U.	00	00
0.2. LAST LEVEL, MOD, THIS TYP.	00	00
0.3. LAST LEVEL, BY DESIGNER.	00	00
0.4. CHANGED FROM TYP. TO	00	00



DATE	BY
08.10.11	00
08.10.11	00
08.10.11	00
08.10.11	00

UNION PACIFIC RAILROAD
TUCSON, ARIZONA
HIGHWAY CROSSING SIGNAL
CIRCUIT PLANS

DATE	BY
08.10.11	00
08.10.11	00
08.10.11	00
08.10.11	00

REV. 03/06/01 (17/0000)

STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION

Agreement No. 1532-91-SPTC

Agreement Addendum No. 1

Company's Name: The Union Pacific Railroad Company
Address: 101 S. Watson Road, Arlington, TX 76010

The purpose of this addendum is to modify the Company name as stated herein:

WHEREAS: Agreement No. 1532-91-SPTC terms the "RAILROAD" as SOUTHERN PACIFIC TRANSPORTATION COMPANY.

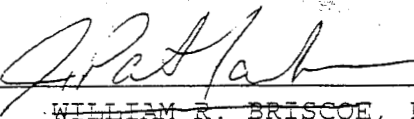
WHEREAS: Agreement No. 1532-91-SPTC is revised to term the "RAILROAD" as the UNION PACIFIC RAILROAD COMPANY.

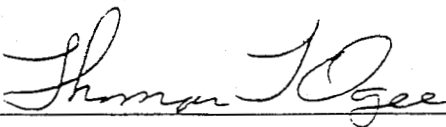
THEREFORE: The parties hereto agree that Agreement No. 1532-91-SPTC is hereby amended as shown herein. All other provisions of Agreement No. 1532-91-SPTC shall remain unabrogated.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

ARIZONA DEPARTMENT OF TRANSPORTATION

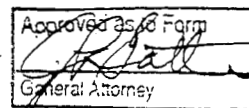
UNION PACIFIC RAILROAD COMPANY

By 
WILLIAM R. BRISCOE, P.E.
S. Patrick Hackett
Utility & Railroad Engineering Section

By 
CHIEF ENGINEER

Date 2-18-99

Date _____



A. G. CONTRACT NO. KR95-1689-T1

**ARIZONA DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION**

UTILITY AND RAILROAD ENGINEERING SECTION

MASTER
RAILROAD AGREEMENT
For
FEDERAL AID
Railroad Crossing Projects

SOUTHERN PACIFIC TRANSPORTATION COMPANY
Agreement No. 1532-91-SPTC
RAIL/HIGHWAY SAFETY PROGRAM

THIS AGREEMENT by and between SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation, herein termed "RAILROAD," and STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, herein termed "STATE".

WITNESSETH:

The parties hereto desire to set forth by this instrument their understanding and agreements with respect to the installation, at various times, of railroad warning devices and/or surface crossing materials with track rehabilitation, if required, throughout the State of Arizona, where a roadway crosses the property and tracks of RAILROAD.

Agreement No. 1532-91-SPTC

AGREEMENT:

NOW THEREFORE, it is mutually agreed as follows:

1. The work to be performed by RAILROAD under this agreement is hereinafter referred to as "PROJECT".

2. RAILROAD agrees to furnish all labor, materials, tools, and equipment necessary to install such warning devices including necessary actuating and operating circuits and adequate instrument housing and/or roadway crossing materials with track rehabilitation, if required, upon its property at certain designated grade crossings.

Said installation shall comply with the latest standards prescribed by the Association of American Railroads and the Manual On Uniform Traffic Control Devices, Part VIII.

3. RAILROAD will prepare both a cost estimate, marked Exhibit "A" and a location plan marked, Exhibit "B", showing the general details of each PROJECT and send them to STATE for acceptance.

4. It is agreed that the work to be performed by RAILROAD is a part of a Federal-Aid project. Pursuant to the provisions of Federal-Aid Policy Guide Subchapter G, Part 646 Subpart B, there is no ascertainable net benefit to RAILROAD, and STATE agrees to reimburse RAILROAD for one hundred percent (100%) of the cost and expense incurred by RAILROAD in furnishing of materials and performing the work as described in the Cost Estimate, marked EXHIBIT "A", attached to and made a part hereof.

5. It is understood and agreed that the STATE is acting solely as an agent for the project sponsor in securing and administering Federal funds and STATE assumes no other liability hereunder for the project sponsor.

6. Prior to commencing construction of each PROJECT, Railroad agrees to notify STATE, in writing, of the actual construction start date. Upon completion of each PROJECT, RAILROAD agrees to notify STATE, in writing, of the actual completion date. The construction start date shall not be prior to receiving a notice to proceed from STATE. Construction progress payments shall not be made without the actual construction start date. Final payment shall not be made without the actual construction completion date.

7. The work for each PROJECT shall be performed by RAILROAD forces on an actual cost basis, and as supported by the analysis of estimated costs set forth in Exhibit "A". The actual cost shall be payable in payments as follows:

- a. RAILROAD will order the materials for each PROJECT, and may invoice the STATE upon receipt, for materials and related costs, as set forth in Exhibit "A".
- b. RAILROAD may submit monthly invoices for work performed and materials installed unless invoiced under subparagraph a.
- c. Minimum payment, except for final invoice, is \$5,000.
- d. Upon completion of all work under each PROJECT, RAILROAD shall arrange for a joint close-out inspection of the completed PROJECT. Upon determination by STATE that the work has been completed in accordance

with Exhibits "A" and "B", RAILROAD will submit final and complete invoice to the STATE. STATE agrees to pay RAILROAD the difference between the final invoice and any previous payments for PROJECT. Any amount with which STATE disagrees shall be paid under protest, subject to resolution.

- e. All invoices will be paid by STATE within sixty (60) days of receipt.

All expenses incurred by RAILROAD for work which STATE is obligated to reimburse RAILROAD hereunder, including all work incidental to such work but not specifically mentioned herein, shall be subject to the provisions of the Federal-Aid Policy Guide Subchapter B Part 140 Subpart I.

8. Pursuant to A.R.S. Sections 35-214, 35-215 and 41-1279.04, the books of RAILROAD shall be open for inspection and audit by authorized representatives of STATE and the Federal Government for a period of not less than five (5) years from the date final payment has been received by RAILROAD. State agrees to pay RAILROAD any sums found to be owing as a result of an audit within sixty (60) days of receipt of the audit by the Utility and Railroad Engineering Section of STATE. RAILROAD agrees to reimburse STATE, within sixty (60) days of notification for any amount STATE disallows as a result of its audit. Any audit exceptions with which RAILROAD disagrees shall be paid to STATE under protest subject to resolution.

9. All invoices shall contain STATE's project number and agreement number. The invoice shall be sent to:

ARIZONA DEPARTMENT OF TRANSPORTATION
Utility and Railroad Engineering Section
205 South 17th Ave. Mail Drop 618E
Phoenix, Arizona 85007-3212

10. Once installation of railroad warning devices and/or roadway crossing material has been completed, RAILROAD shall maintain, in kind, the railroad warning devices and the crossing material two feet outside of each rail as long as they remain in place. However, RAILROAD shall be entitled to receive any contribution toward the cost of such maintenance as may be now or hereafter made available by means of any law, ordinance, regulation, order, grant or by other means or sources.

11. Claims and disputes between STATE and RAILROAD involving sums less than \$100,000 and arising out of the terms of this Agreement relating to work performed, invoicing and similar matters, shall be subject to arbitration, at the request of either party, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining; provided, however, that claims or disputes arising out of personal injury, death, property damage, or environmental incidents shall not be subject to arbitration without the concurrence of both parties, except to the extent otherwise required by the rules of Arizona courts.

12. In compliance with the regulations of the United States Department of Transportation, RAILROAD hereby agrees to comply fully with all of the provisions of Appendix "A", attached hereto and by this reference made a part of this Agreement; provided, however, that Appendix "A" shall be applicable only in those cases where RAILROAD does not perform the work contemplated in this Agreement with its own forces.

13. This Agreement is subject to the budgetary limitations set forth in Arizona Revised Statutes Subsection 28-1823 through 28-1826 inclusive and is further subject to the provisions of Chapter 1 of Title 35, Arizona Revised Statutes.

14. STATE and RAILROAD each agrees to be liable to the other party for its own acts of negligence and the negligence of its own employees.

15. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of RAILROAD and the assigns of STATE.

16. RAILROAD is required to comply with Executive Order 75-5, "Non-Discrimination in Employment by Government Contractors and Subcontractors," which is hereby included in its entirety by reference and considered a part of this Agreement.

17. Pursuant to A.R.S. Subsection 38-511, STATE may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of STATE or any of its departments or agencies is, at any time while this Agreement or any extension of it is in effect, an employee of any other party to this Agreement with respect to the subject matter of this Agreement.

:
:
:
:
:

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year signed by both parties.

SOUTHERN PACIFIC
TRANSPORTATION COMPANY

ARIZONA DEPART. OF TRANSPORTATION
HIGHWAY DIVISION

By
Its

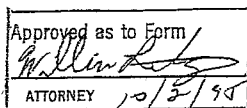
James L. Moeller
MANAGER-CONTRACTS

By

William R. Briscoe
Manager of Utility & Railroad
Engineering Section

Date October 2, 1995

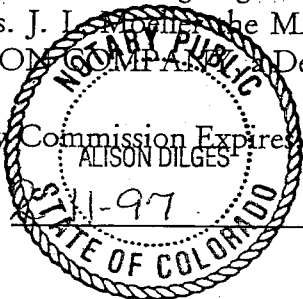
Date 10-17-95



STATE OF COLORADO)
) ss.
COUNTY of DENVER)

The foregoing instrument was acknowledged before me this 2nd day of October, 1995, by Ms. J. L. Moeller, the MANAGER-CONTRACTS of SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation, on behalf of the corporation.

My Commission Expires



Notary Public

Alison Dilges

My Commission Expires 2-11-97

STATE OF ARIZONA)
) ss.
COUNTY of MARICOPA)

The foregoing instrument was acknowledged before me this 17 day of October, 1995, by William R. Briscoe, the Manager of Utility and Railroad Engineering Section of the Arizona Department of Transportation, on behalf of the STATE.

My Commission Expires:

My Commission Expires March 25, 1999

Notary Public

Connie Marie [Signature]

Agreement No. 1532-91-SPTC

APPENDIX A
(Revised)

II EQUAL OPPORTUNITY

1. Selection of Labor:

During the performance of this contract, the contractor shall not discriminate against labor from any other State, possession or territory of the United States.

2. Employment Practices:

During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers' representative of the contractors commitments under this section II-2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of this Section II-2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment:

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

a. Compliance With Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (2) cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provision of this paragraph 3 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State highway department to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.